

Panaji, 8th August, 1985 (Savana 17, 1907)

SERIES II No. 19

OFFICIAL GAZETTE



GOVERNMENT OF GOA, DAMAN AND DIU

GOVERNMENT OF GOA, DAMAN AND DIU

Department of Personnel and Administrative Reforms

Order

No. 3/23/84-PER

On placement of his services at the disposal of the Andaman & Nicobar Administration by the Government of India, Ministry of Home Affairs, vide their Wireless Message No. U. 14016/21/85-UTS dated 18-7-1985, the Administrator of Goa, Daman and Diu is pleased to relieve with immediate effect Shri Aditya Arya, IPS, Sub-Divisional Police Officer, Panaji to take his new assignment in the Senior Time Scale of I.P.S. as Superintendent of Police, Special Armed Police and Bush Police, Andaman & Nicobar.

2. Shri Arya after handing over the charge shall report to the Chief Secretary, Andaman and Nicobar Administration to take over his new assignment.

By order and in the name of the Administrator of Goa, Daman and Diu.

N. P. Gaunekar, Under Secretary (Personnel).

Panaji, 2nd August, 1985.

General Administration and Co-ordination Division

Order

No. PER-822/GA&C(Part)

In pursuance of the Orders of the Ministry of Home Affairs, Government of India, New Delhi as conveyed through the D.O. letter No. U. 14016/2/84-GP I dated 9th July, 1985 of the Home Minister, Shri U. D. Sharma, Law Secretary, who is on deputation to this Administration, is hereby relieved of the said post under this Administration with effect from 5-8-1985 (A.N.) and his services are placed at the disposal of parent Department of Legal Affairs, Ministry of Law and Justice, New Delhi.

By order and in the name of the Administrator of Goa, Daman and Diu.

G. G. Kambli, Under Secretary (G. A.).

Panaji, 1st August, 1985.

Home Department

General Branch/Division

Order

No. 13/3/84-HD(G)

In exercise of the powers conferred by sub-section (3) of section 3 of the National Security Act, 1980 (No. 65 of 1980),

the Administrator of Goa, Daman and Diu being satisfied having regard to the circumstances likely to prevail in any area within the local limits of the jurisdiction of the District Magistrate, Goa that it is necessary so to do hereby directs that the said District Magistrate may also, if satisfied as provided in sub-section (2) of section 3 of the said Act, exercise the powers conferred by the said sub-section within the local limits of his jurisdiction for a period of three months from the date of issue of this order.

By order and in the name of the Administrator of Goa, Daman and Diu.

K. N. S. Nair, Under Secretary (Home).

Panaji, 24th July, 1985.

Order

No. 13/3/84-HD(G)

In exercise of the powers conferred by sub-section (3) of section 3 of the National Security Act, 1980 (No. 65 of 1980), the Administrator of Goa, Daman and Diu being satisfied having regard to the circumstances likely to prevail in any area within the local limits of the jurisdiction of the District Magistrate, Daman that it is necessary so to do hereby directs that the said District Magistrate may also, if satisfied as provided in sub-section (2) of section 3 of the said Act, exercise the powers conferred by the said sub-section within the local limits of his jurisdiction for a period of three months from the date of issue of this order.

By order and in the name of the Administrator of Goa, Daman and Diu.

K. N. S. Nair, Under Secretary (Home).

Panaji, 24th July, 1985.

Order

No. 13/3/84-HD(G)

In exercise of the powers conferred by sub-section (3) of section 3 of the National Security Act, 1980 (No. 65 of 1980), the Administrator of Goa, Daman and Diu being satisfied having regard to the circumstances likely to prevail in any area within the local limits of the jurisdiction of the District Magistrate, Diu that it is necessary so to do hereby directs that the said District Magistrate may also, if satisfied as provided in sub-section (2) of section 3 of the said Act, exercise the powers conferred by the said sub-section within the local limits of his jurisdiction for a period of three months from the date of issue of this order.

By order and in the name of the Administrator of Goa, Daman and Diu.

K. N. S. Nair, Under Secretary (Home).

Panaji, 24th July, 1985.

Forest and Agriculture Department

Order

No. 2-9-79/AGR

The Administrator of Goa, Daman and Diu is pleased to order the transfer of the following Assistant Agricultural Officers, Grade-I (Group 'B') in the pay scale of Rs. 650-1200 in the Directorate of Agriculture with immediate effect :—

Sr. No.	Name	Present posting	New posting
1.	Shri S. P. Rai	Zonal Agricultural Officer, Satari.	Zonal Agricultural Officer, Margao vice Shri P. N. Shukla transferred.
2.	Shri S. S. P. Tendulkar	Zonal Agricultural Officer, Ponda.	Zonal Agricultural Officer, Satari vice Shri S. P. Rai transferred.
3.	Shri K. G. Sharma	Training Officer (Male) Farmer's Training Centre, Ela, Old-Goa.	Zonal Agricultural Officer, Ponda vice Shri S. S. P. Tendulkar transferred.
4.	Shri P. N. Shukla	Zonal Agricultural Officer, Margao.	Assistant Agricultural Officer Grade-I at Headquarters Panaji vice Shri V. V. Kulkarni transferred.
5.	Shri S. V. Dessai	Zonal Agricultural Officer, Mapusa.	Training Officer (Male) Farmer's Training Centre Ela, Old Goa vice Shri K. G. Sharma transferred.
6.	Shri P. R. Shashikumar	Farm Superintendent, Ela, Old Goa.	Zonal Agricultural Officer, Mapusa vice Shri S. V. Dessai transferred.
7.	Shri V. V. Kulkarni	Asstt. Agril. Officer, Grade-I (Sug) Headquarters, Panaji.	Farm Superintendent Ela Old Goa vice Shri P. R. Shashikumar transferred.
8.	Shri P. P. Kumbhare	Subject Matter Specialist (Water Management) Zonal Agril. Officer, Mapusa.	Assistant Agricultural Officer, Grade-I Headquarters, Panaji vice Shri E. Gama Pinto transferred.
9.	Shri E. Gama Pinto	Asstt. Agril. Officer, Grade-I, Headquarters, Panaji.	Subject Matter Specialist (water Management) Zonal Agricultural Office, Mapusa vice Shri P. P. Kumbhare transferred.
10.	Shri Tufani	Research Officer, Office of the Farm Superintendent, Kalay.	Farm Superintendent, Kalay vice Shri K. Purshottaman transferred.
11.	Shri K. Purshottaman	Farm Superintendent, Kalay.	Asstt. Agril. Officer, Grade-I Soil Conservation Division, Directorate of Agriculture, Panaji against the vacancy caused due to death of Shri M. B. Bhohe.

2. Officers at Sr. No. 1, 3, 5, 7, 9 and 11 will move first.

By order and in the name of the Administrator of Goa, Daman and Diu.

A. P. Pawelkar, Under Secretary to the Government of Goa, Daman and Diu.

Panaji, 26th July, 1985.

Public Works and Urban Development Department

Order

No. 7/12-1/82-WET

On the recommendation of the Departmental Promotion Committee, Shri Arjun D'Souza, Sr. Architectural Assistant in the Office of the Sr. Architect of P.W.D., Panaji is hereby promoted to the post of Assistant Architect in the scale of pay of Rs. 650-30-740-35-810-EB-35-880-40-1000-EB-40-1200 plus all other admissible allowances sanctioned from time to time, with immediate effect.

By order and in the name of the Administrator of Goa, Daman and Diu.

A. V. Pimenta, Under Secretary (PW & UD).

Panaji, 25th July, 1985.

Tourism, Information and Transport Department

Order

No. DT/PL-TDC/666/77/Part. I

The Administrator of Goa, Daman and Diu is pleased to appoint Shri R. K. Bhatia, I. A. S., Secretary Urban Development as a Director on the Board of Directors of the Goa,

Daman and Diu Tourism Development Corporation Ltd., by virtue of the Provision of Articles 107 and 109 of the Articles of Association of the Goa, Daman and Diu Tourism Development Corporation Ltd.

Shri R. K. Bhatia, Secretary, Urban Development will continue to hold the charge of Managing Director of the Goa, Daman and Diu Tourism Development Corporation Ltd., as per the Provision of Article 112 of the Articles of Association of the Goa, Daman and Diu Tourism Development Corporation Ltd., until further orders.

This order is issued in continuation of order No. DT/PL-TDC/666/77/Part-I dated 15-12-1983 read with addendum No. DT/PL-TDC/666/77/Part-I dated 7-6-1985.

By order and in the name of the Administrator of Goa, Daman and Diu.

P. R. Joshi, Under Secretary (STE).

Panaji, 26th July, 1985.

Revenue Department

Notification

No. 22/97/85-RD

Whereas it appears to the Appropriate Government (hereinafter referred to as "the Government") that the land specified in the schedule hereto (hereinafter referred to as

the "said land") is likely to be needed for public purpose viz. Land Acquisition for allotment of House Sites under 20 point programme at Nagoa, Salcete.

Therefore the Government is pleased to notify under sub-section (1) of Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as the "said Act") that the said land is likely to be needed for the purpose specified above.

2. All persons interested in the said land are hereby warned not to obstruct or interfere with any surveyor or other persons employed upon the said land for the purpose of the said acquisition. Any contracts for the disposal of the said land by sale, mortgage, assignment, exchange or otherwise, or any outlay commenced or improvements made thereon without the sanction of the Collector appointed in paragraph 4 below, after the date of the publication of this Notification, will under clause (seventh) of Section 24 of the said Act, be disregarded by him while assessing compensation for such parts of the said land as may be finally acquired.

3. If the Government is satisfied that the said land is needed for the aforesaid purpose, a declaration to that effect under Section 6 of the said Act will be published in the Official Gazette, in due course. If the acquisition is abandoned wholly or in part, the fact will be notified.

4. The Government is further pleased to appoint under clause (c) of Section 3 of the said Act the Additional Deputy Collector (HQ-I) Collectorate of Goa, Panaji, to perform the functions of a Collector under the said Act in respect of the said land.

5. The Government is also pleased to authorise under sub-section (2) of Section (4) of the said Act, the following officers to do the acts, specified therein in respect of the said land.

1. The Collector of Goa, Panaji.
2. The Additional Deputy Collector (HQ-I) Collectorate of Goa, Panaji.
3. The Block Development Officer, Salcete-Mormugao, Margao, Goa.
4. The Director of Land Survey, Panaji.

6. A rough plan of the said land is available for inspection in the office of the Additional Deputy Collector (HQ-I) Collectorate of Goa, Panaji for a period of 30 days from the date of publication of this Notification in the Official Gazette.

SCHEDULE

(Description of the said land)

Sr. No.	Taluka	Village/Ward	Survey No.	Sub-Div. No.	Names of the persons believed to be interested	Approximate area in sq. mts.
1	2	3	4	5	6	7
	Salcete	Nagoa	40	1 Part	Comunidade of Nagoa.	25000.00
Boundaries:						
North: S. No. 40.						
South: S. No. 40.						
East: S. No. 40.						
West: S. No. 40.						
Total						25000.00

By order and in the name of the Lt. Governor of Goa, Daman and Diu.

P. S. Nadkarni, Under Secretary (Revenue).

Panaji, 12th July, 1985.

Notification

No. 22/92/85/RD

Whereas it appears to the Appropriate Government (hereinafter referred to as "the Government") that the land specified in the schedule hereto (hereinafter referred to as the "said land") is likely to be needed for public purpose viz. Land Acquisition for construction of link road from Aframentowado to Rodrigueswado at Sodiem-Siolim, Bardez.

Therefore the Government is pleased to notify under sub-section (1) of Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as the "said Act") that the said land is likely to be needed for the purpose specified above.

2. All persons interested in the said land are hereby warned not to obstruct or interfere with any surveyor or other persons employed upon the said land for the purpose of the said acquisition. Any contracts for the disposal of the said land by sale, mortgage, assignment, exchange or otherwise or any outlay commenced or improvements made thereon without the sanction of the Collector appointed in paragraph 4 below, after the date of the publication of this Notification, will under clause (seventh) of Section 24 of the said Act, be disregarded by him while assessing compensation for such parts of the said land as may be finally acquired.

3. If the Government is satisfied that the said land is needed for the aforesaid purpose, a declaration to that effect under Section 6 of the said Act will be published in the Official Gazette, in due course. If the acquisition is abandoned wholly or in part, the fact will be notified.

4. The Government is further pleased to appoint under clause (c) of Section 3 of the said Act the Addl. Deputy Collector (HQ-2) Collectorate of Goa, Panaji to perform the functions of a Collector under the said Act in respect of the said land.

5. The Government is also pleased to authorise under sub-section (2) of Section (4) of the said Act, the following officers to do the acts, specified therein in respect of the said land.

1. The Collector of Goa, Panaji.
2. The Executive Engineer, Works Division II (R & B) P. W. D., Panaji.
3. The Addl. Dy. Collector (HQ-2) Collectorate of Goa, Panaji.
4. The Director of Land Survey, Panaji.

6. A rough plan of the said land is available for inspection in the office of the Addl. Dy. Collector (HQ-2) Collectorate of Goa, Panaji for a period of 30 days from the date of publication of this Notification in the Official Gazette.

SCHEDULE

(Description of the said land)

Sr. No.	Taluka	Village/Ward	Survey No.	Sub. Div. No.	Names of the persons believed to be interested	Approximate area in sq. mts.
1	2	3	4	5	6	7
	Bardez	Siolim	209	2 18	Andrade Fernandes. John Fernandes.	400.00 180.00

1	2	3	4	5	6	7
	Bardez	Siolim	209	21 31 35 46 55	Reginalda Fernandes. John Fernandes. Vitorino Fernandes. John Fernandes. Andrade Fernandes.	180.00 120.00 175.00 460.00 220.00
Boundaries:						
North: S. No. 210/1.						
South: Road.						
East: S. No. 209, Sub. Div. 2, 15, 32, 39, 21, 18, 46.						
West: S. No. 209 Sub. Div. 2, 18, 21, 31, 35, 46, 55.						
Total						1735.00

By order and in the name of the Lt. Governor of Goa, Daman and Diu.
P. S. Nadkarni, Under Secretary (Revenue).
Panaji, 12th July, 1985.

Notification
No. 22/96/85-RD

Whereas it appears to the Appropriate Government (hereinafter referred to as "the Government") that the land specified in the schedule hereto (hereinafter referred to as the "said land") is likely to be needed for public purpose viz. Land Acquisition for construction of road at Bagwada from Rohidas Hari Vasta house to the end of the Property "Caria Antai" at Curchorem.

Therefore the Government is pleased to notify under sub-section (1) of Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as the "said Act") that the said land is likely to be needed for the purpose specified above.

2. All persons interested in the said land are hereby warned not to obstruct or interfere with any surveyor or other persons employed upon the said land for the purpose of the said acquisition. Any contracts for the disposal of the said land by sale, mortgage, assignment, exchange or otherwise, or any outlay commenced or improvements made thereon without the sanction of the Collector appointed in paragraph 4 below, after the date of the publication of this Notification, will under clause (seventh) of Section 24 of the said Act, be disregarded by him while assessing compensation for such parts of the said land as may be finally acquired.

3. If the Government is satisfied that the said land is needed for the aforesaid purpose, a declaration to that effect under Section 6 of the said Act will be published in the Official Gazette, in due course. If the acquisition is abandoned wholly or in part, the fact will be notified.

4. The Government is further pleased to appoint under clause (c) of Section 3 of the said Act the Additional Deputy Collector (3-South), Margao, to perform the functions of a Collector under the said Act in respect of the said land.

5. The Government is also pleased to authorise under sub-section (2) of Section (4) of the said Act, the following officers to do the acts, specified therein in respect of the said land.

1. The Collector of Goa, Panaji.
2. The Additional Deputy Collector (3-South), Margao.
3. The Block Development Officer, Quepem, Goa.
4. The Director of Land Survey, Panaji.

6. A rough plan of the said land is available for inspection in the office of the Additional Deputy Collector (3-South), Margao for a period of 30 days from the date of publication of this Notification in the Official Gazette.

SCHEDULE
(Description of the said land)

Sr. No.	Taluka	Village/Ward	Survey No.	Sub-Div. No.	Names of the persons believed to be interested	Approximate area in sq. mts.
1	2	3	4	5	6	7
1.	Quepem	Curchorem	6	1 (part)	Shri Shantadurga of Kavlem.	260.00
Boundaries:						
North: Road.						
South: S. No. 6/3.						
East: S. No. 6/1.						
West: S. No. 6/1.						
Total						260.00

By order and in the name of the Lieutenant Governor of Goa, Daman and Diu,
P. S. Nadkarni, Under Secretary (Revenue).
Panaji, 12th July, 1985.

Notification

No. RD/TNC/BND/280/67

In pursuance of the proviso to sub-section (3) of Section 26 of the Goa, Daman and Diu Agricultural Tenancy Act, 1964, the Government hereby specify the following bund prescribed in the schedule appended hereto as protective bund for the purpose of the said proviso:—

SCHEDULE

Sr. No.	Name of the bund	Village	Taluka	Approximate area protected (in Hectares)	Description of the bund
1	2	3	4	5	6
	Dutonem Khazan'	Bastora Moira	Bardez	1.70 Ha. Direct & 150 Ha. Indirect.	This bund is starting from the paddy field 'Dutonem Khazan' situated at Bastora-Moira of Bardez Taluka & owned by Shri Babal Morto Naik of Moira and ending with the same paddy field 'Dutonem Khazan' situated at Moira of Bardez Taluka owned by Shri Babal Morto Naik. The bund is running parallel to the creek of Mapusa river.

By order and in the name of the Lt. Governor of Goa, Daman and Diu.

A. V. Pimenta, Under Secretary (Revenue).

Panaji, 24th June, 1985.

Corrigendum

No. 22/93/82-RD

Read: Government Notification No. 22/93/82-RD dated 4-7-85 published in the Official Gazette dated 11-7-85 Series II, No. 15. Page 254.

The words "Additional Deputy Collector (3-North), Panaji" appearing in the second and third para of the above Notification may be read as "Additional Deputy Collector (H.Q.I) and L.A.O. Panaji".

P. S. Nadkarni, Under Secretary (Revenue).

Panaji, 29th July, 1985.

Public Health Department

Order

No. 4-24-79/PHD

Government is pleased to ratify the appointments of following officers in the Directorate of Health Services from the dates shown against their names, in consultation with the Union Public Service Commission.

Sr. No.	Name	Designation	Date
1.	Dr. Srikrishna V. S. Quirtani	Medical Officer	8-7-1964
2.	Dr. Antonio J. M. Rodrigues	do	25-1-1965
3.	Dr. Lanfredo R. A. das M. Costa	do	1-9-1965
4.	Dr. Jose F. X. F. Camilo Cunha	do	14-8-1967
5.	Dr. Ramexa D. Molcornekar	do	14-8-1967
6.	Dr. Fernando Menezes	do	20-9-1969
7.	Dr. Anant V. S. Amonkar	do	10-1-1970
8.	Dr. Kusum Talaulikar	do	1-5-1972
9.	Dr. Pundalik Hegde Dessai	do	24-7-1974
10.	Dr. Xamrao Poi Palondikar	do	5-8-1974
11.	Dr. Umesh S. Panandikar	do	9-9-1974
12.	Dr. Rajiv V. Mahatme	do	24-6-1976
13.	Dr. Prakash Kanekar	do	31-12-1976
14.	Dr. Purushottam Caroiakar	Jr. Anaesthetist	24-7-1964
15.	Dr. Ramacrishna G. S. Ramani	do	16-7-1966

By order and in the name of the Administrator of Goa, Daman and Diu.

S. V. Bhadri, Under Secretary (Health).

Panaji, 25th July 1985.

Industries and Labour Department

Order

No. 28/4/85-ILD

The following Award given by the Industrial Tribunal, Goa, Daman and Diu is hereby published as required under the provisions of Section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947).

By order and in the name of the Administrator of Goa, Daman and Diu.

Subhash V. Elekar, Under Secretary (Industries and Labour).

Panaji, 9th July, 1985.

IN THE INDUSTRIAL TRIBUNAL GOA, DAMAN AND DIU, PANAJI-GOA

(Before Dr. Renato de Noronha, Hon'ble Presiding Officer)

Reference No.: IT/24/84

1. Shri F. X. D'Souza, Rep. by M/s. Menezes, Industrial Complex Employees Association — Workman/Party I V/s.

1. M/s. Cosmed Analytical and Central Services — Employer/Party II

Workman/Party I represented by Adv. Noel Dias Sapeco. Employer represented by Adv. G. K. Sardesai.

Panaji, Dated: 21-6-1985

AWARD

The Government of Goa, Daman and Diu, by its Order No. 28/13/84-ILD dated 14th May, 1984, has referred for the adjudication by this Tribunal of an industrial dispute between the above parties. The schedule annexed to the order of reference reads as follows:

"Whether the action of the management of M/s. Cosmed Analytical and Central Services, Curti, Ponda in terminating the services of the Workman, Shri F. X. D'Souza, Sampler-cum-General Assistant with effect from 29-2-1984 is legal and justified?

If not, what relief the workman is entitled to?"

2. In his statement of claim, the workman has stated that he was working at the employer's factory at Curti as a Sam-

pler -cum-General Assistant and was appointed on 17-4-1980; there were no complaints about his service and he had a clean service record. The circumstances leading to his termination were because, sometime in the month of February 1984, i.e. on 2-2-1984, he was confronted by Shri Eric Menezes, one of the Executives of the company, stationed at Panaji Office, who called the workman to his cabin and was investigating about certain malpractices at the factory where "Prodorm" tablets were found to be removed from the factory and sold in the open market and the executive was suspicious about certain staff members who might be involved. He asked the workman to give evidence and record a declaration that he was aware as to who was removing the tablets. When the workman denied any knowledge about the misappropriation of the tablets from the factory, he was threatened that the company would take action against him. He was given transfer order to the Head Office and, subsequently, his services were terminated by a letter No. PERS/CACS/681, dated 28-2-1984. No reasons for this drastic actions were given and the termination was not preceded by any show cause notice, charge sheet or inquiry, thus infringing the principles of natural justice. It is his contention that this is a clear case of victimization and so the termination is vitiated. The workman not knowing anything of the pilferage/misappropriation of the company's goods could not, in conscience, implicate his fellow workers and as he had the courage of his conviction he has been victimized. The Management had actually obtained by force an incriminating statement against some other workers, which statement has been used indirectly to get rid of these workers. The employer, at the time of termination of his services, offered him a demand draft to cover one month's notice pay and retrenchment compensation, as required under Section 25F of the Act. The termination is, however, not a case of retrenchment because the workman is one of the Sr. most samplers-cum-general assistant. Retrenchment entails removing the Jr. most employee and, therefore, it is not a case of retrenchment. The termination therefore, is mala fide, prejudicial and amounts to victimization. He has prayed for his immediate reinstatement with full back wages and continuity of services and such other benefits he may be entitled to had he continued in service.

3. In its written statement, the employer has stated that the Chairman of M/s. Cosmed Analytical and Central Services, Mr. P. J. Menezes, who was also the President of M/s. Carter Wallace Limited, had been receiving reports from various sources that "Prodorm" tablets manufactured by Carter Wallace Limited at its factory at Curti Ponda, were being clandestinely and unauthorisedly removed from the factory premises and thereafter sold, without the requisite licence to sell the drugs. "Prodorm" tablets are narcotic and their sale is strictly regulated and controlled, a special licence being required for stocking and selling them. Apart from this, it is only on the recommendation of a qualified medical practitioner that such tablets could be sold by licence holder/pharmacists. Students from schools and colleges were the main target of these drug peddlars who were selling illegally the tablets, clandestinely removed from the factory. The Chairman was extremely pained at this development and had expressed his displeasure to the concerned Officers. As a result of continuous flow of tablets, the Department of Drugs Controller had often warned the employer of serious consequences in the event this pilferage was not stopped. Consequent to his warning, the Chairman personally initiated an inquiry by a special agency to trace the source of pilferage but no success could be achieved. The Chairman was pained, as the name of the company was likely to be tarnished if the matter received exposure. On 3-2-1984 Mr. Eric Menezes informed the Chairman at his office at Panaji that, consequent to information collected by him from some of his friends on 2-2-1984, he had a meeting with the workman Mr. F. X. D'Souza, who, on being questioned, after some time had admitted that he was responsible for removing out such tablets from the factory premises and clandestinely and unauthorisedly selling them to different persons, and, infact, on the very same day he had promised some persons to supply these tablets. Thereafter, at the instance of Mr. Eric Menezes, the workman led him to his residence at Buttem Bhat, Mercas and handed over a plastic container having approx. 1700 "Prodorm" tablets. Mr. Eric Menezes handed over the container with tablets to the Chairman. Pursuant to the preliminary investigations wherein the workman was questioned in the presence of one Mr. J. Heredia, Mr. K. S. Rao and Mr. Eric Menezes, it was found that Mr. Narendra Naik, employed as a helper with Carter Wallace, was responsible for supplying these tablets to the workman. The said workman Narendra was thereafter personally questioned by Mr. P. J. Menezes in the presence of Anastacio Colaco after being called for from the factory premises. In the meanwhile, it was thought advisable to ensure the presence of the workmen in the Head office for further investigations. The

employer has denied that, at any stage, the workman was threatened that action would be taken against him or that he was required to give any statement under duress. It is submitted that the termination of the services of the workman was for loss of confidence, as it was felt that it would not be in the interest of the employer to retain him as the drugs were narcotic in nature and any pilferage would lead to serious consequences whereby the sale of this schedule 'X' drug would expose the Management to serious penal consequences. Apart from this, the manufacturing licence of M/s. Carter Wallace was likely to be discontinued/suspended in the event the company was exposed. The seriousness of the matter has also to be emphasized in the context of the sale of drugs to the innocent students from Colleges and schools and further it is to be viewed in the context of the increasing drug abuse in this territory. The employer has denied that this is a case of victimization or that the termination of the workman is vitiated. It has further denied that the incriminatory statement has been obtained by force or that it has been used to get rid of the worker as alleged.

4. The workman filed his affidavit in reply to the written statement of the company.

5. The following issues were framed by the Tribunal:

"Besides the Issues involved in the order of reference, the following issues are hereby framed:

1. Whether the workman proves that the termination of his services is for a misconduct?
2. Whether the workman proves that the said termination is by way of victimization?
3. Whether the workman proves that the employer obtained from him by force an incriminating statement against some other workers which was used to get rid of them?"

6. After list of evidence was filed and the case was posted for evidence, both the parties approached the Court and stated that they had settled the matter amicably and produced the settlement terms praying that consent award be passed accordingly:

7. The terms of settlement are as follows:

- "1. The workman and the Association agree not to press the reference No. IT/24/84 pending before the Industrial Tribunal Panaji, Goa and agree to treat the matter as settled.
2. The employer agrees to pay the workman a sum of Rs. 24,220/- (Rupees Twenty four thousand two hundred twenty only) as and by way of full and final settlement of all the dues in respect of Ref. No. IT/24/84.
3. The workman and the Association agree not to raise any disputes pertaining to the reinstatement with back wages or any other disputes in the future.
4. The management agree not to raise any matter whatsoever pertaining to the issue before any authorities in the future.
5. The parties agree to file this settlement before the Industrial Tribunal with a prayer to pass a consent award in terms of this settlement in respect of Ref. No. IT/24/84.
6. Both the parties agree not to use this settlement against the third party whatsoever.
7. The parties agree to file this settlement before the Assistant Labour Commissioner, Margao."

8. I have given due consideration to the above terms and arrived at the conclusion that they are fair and just to both the parties, Hence, I accept them and pass the following order:

ORDER

Consent Award in terms of the above settlement is hereby made and the reference is disposed off with no order as to costs.

Dr. Renato de Noronha
Presiding Officer
Industrial Tribunal

Order

No. 28/4/85-ILD

The following Award given by the Industrial Tribunal, Goa, Daman and Diu is hereby published as required under the provisions of Section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947).

By order and in the name of the Administrator of Goa, Daman and Diu.

Subhash V. Elekar, Under Secretary (Industries and Labour).

Panaji, 16th July, 1985.

IN THE INDUSTRIAL TRIBUNAL GOA, DAMAN & DIU PANAJI GOA

(Before Dr. Renato de Noronha, Hon'ble Presiding Officer)

Reference No.: IT/29/73

- | | |
|---|------------|
| 1. Shri Michael D'Souza, rep. by The General Secretary, National Union of General Employers' (Goa). | — Party I |
| V/s. | |
| 1. M/s. St. Laurence Transport Society | — Party II |
| Party II represented by Shri Baldomiro Rebelo. | |

Panaji, Dated: 5-7-1985

AWARD

The Government of Goa, Daman and Diu, by its Order No. LC/1/ID(109)/71/72-73/541 dated 9th April, 1973, has referred for the adjudication by this Tribunal of an industrial dispute between the above parties. The schedule annexed to the order of reference reads as follows:

"Whether the Management of M/s. St. Laurence Transport Society Arrossim-Cansaulim (Goa) was justified in refusing employment to Shri Michael D'Souza with effect from 16-8-1971;

If not, to what relief the workman is entitled?"

2. In its statement of claim, the Union representing the workman has stated, in short, as follows:

The employer is a bus operator, with its office at Arossim, Cansaulim Goa. The workman, who was working as Conductor on the buses of the employer since 12-10-1967, enjoyed leave from 13th to 15th August 1971 and reported for work on the 16th, but was not allowed to join duties by the Secretary of the employer. The Workman approached the Chairman several times, but with no result. He had no alternative but to approach the Labour Commissioner's office, where conciliation proceedings were taken up, which ended in failure. Hence, this reference.

The services of the workman were terminated without any letter of termination or notice. The employer was not happy with the workman, as he was taking a lead in making representations to the employer and other labour authorities for better service conditions etc. The termination of the services of the workman is, therefore, a clear case of victimization. There was no charge sheet, no show cause notice, no inquiry before he was refused employment. He has prayed that the refusal of services be declared illegal and unjustified and the workman reinstated with full back services and continuity.

3. The employer, in its written statement, raised some preliminary objections, namely: one regarding the maintainability of the statement of claim filed by the Union on behalf of the workman, which, it appears, was dropped by the employer, since it was not subject matter of any of the issues framed by the Tribunal. On the merits, the employer has invited the attention of the Tribunal to its statement alleged to have been filed on 9-3-1973 in the file before the Labour Commissioner, which statement is not before the Court.

4. Following issues were framed by my Ld. Predecessor, Dr. Coelho on 7-5-1980:

"1. Do the Employers/Party II prove that they were justified in refusing employment to workman/Party I?

2. Does the Workman/Party I prove that this is a case of victimization due to Union activities, namely making representations to the Employers/Party II for better service conditions, etc.?"

5. No evidence was led before me by any of the parties, but a perusal of the proceedings (which started in 1973 when Shri Chitale was the Presiding Officer and continued with Shri Kholali and Dr. Coelho, which perusal becomes a tiresome job, since the file is in a mess, due to too many unnecessary applications, moved by the employer which are filed in the proceedings mixed up with exhibits and other documents) shows that following statements were recorded in the proceedings:

i) Shri Pedro Paulo Barreto, witness No. 1 for the employer on 11-12-1973. Only the examination in chief of this witness was recorded and the case was adjourned for cross examination, which never took place.

ii) Statement of the workman Shri Martimiano Barreto, dated 12-2-1973, another witness for the employer; and

iii) Statement of the workman Shri Michael D'Souza, but only examination in chief. It was adjourned for cross examination that never took place.

Since the workman and the employer's witness Shri Pedro Paulo Barreto, were not subjected to cross examination, their statements have no evidentially value and have to be ignored by the Tribunal. So, the only evidence that has to be considered is the statement of Shri Martimiano Barreto.

6. But before considering this evidence, I should say that we are not concerned in this reference with the fact that the workman, perhaps because the Tribunal had issued some direction to this effect — joined duties on 7-5-1974, was made to sit in the office by the employer on the 8th for having come without uniform and directed to come on the following day and also sit in the office, which the workman failed to do (vide report of the employer dated 11-5-1974 addressed to the Union and the copy forwarded to the Tribunal). As per the terms of reference, we are called upon to find out only whether the refusal of employment to Shri Michael D'Souza with effect from 16-8-1971 was justified?

7. Coming now to the evidence led by the parties:

Shri Martimiano Barreto has stated that he was working as Secretary for the employer since 1965 and left services in June 1970, but is still a member of the Mg. Committee of the employer. He knows the workman who was employed by the employer in or about 1967 as a conductor. At that time, the witness was a member of the Mg. Committee. Rosario Barreto, Anandrao Lotlikar and Laxman Kantu complained to him about the work of the workman, stating that he was taking money and not issuing tickets; there were similar complaints to the other members of the Mg. Committee. Hence, the matter was taken up by the Mg. Committee. The Mg. Committee ascertained views of all the members and they took a decision Exh C-4 is the resolution passed by the Mg. Committee in this meeting held on 22-8-1971. He has also produced the notice published by the R. T. O. in the local newspapers. (Exh C-5).

In his cross: He has stated that there is no minute book for recording the proceedings of the Mg. Committee; the minutes are recorded on loose sheets like Exh C-4 produced by him; the Chairman dictates the notes; the typed resolution was attached to other signatures later on. On the strength of their resolution, (Exh C-4,) suspension order was issued. The resolution was typed on 22-8-1971 and not on 25-11-1971, as suggested. Some clerk has written the contents in red ink against their signatures. He does not remember whether the added portion was there when he signed the resolution. He has not submitted any written report to the Mg. Committee. He has conveyed orally the information; there was no written complaint at the meeting at which the resolution Exh C-4 was passed. He has denied the suggestion that no meeting was held and that the Resolution C-4 and the papers were prepared just to produce before the Labour Commissioner. Application Exh C-6 is in the handwriting of the workman.

8. Although various complaints were filed in the proceedings by the employer to show the misconduct committed by the workman, no evidentially value can be given to such complaints because none of the complainants were examined in open court so as to enable the workman to test their statements by way of cross examination. Similarly, Exh C-4, which is the Minutes of the Mg. Committee Meeting held on 22-8-1971, and was confirmed by the witness Martimiano

Barreto, one of the members of the Mg. Committee. The genuity of this exhibit has been challenged by the workman in cross examination and, infact, the lose sheet produced as being the minutes of the Meeting cannot have any evidentially, value because the minutes of the Society Meetings are to be recorded in a proper book kept for this purpose and not in lose sheets, which would provide an easy opportunity to forge such minutes.

Besides, there are additions in red ink to the said minutes, which also does not have the signature of Shri Martimiano Barreto. All this raises doubts regarding the genuity of the Meeting of the Society alleged to have been held on 22-8-1971.

9. The employer has also produced the show cause notice dated 16-6-1971 (Exh C-2) which is signed by Shri Pedro Paulo Barreto as a witness. This, Pedro Paulo Barreto is witness No. 1 for the employer. In his examination in chief recorded by the Court, he has confirmed the issuance of the said notice to the workman and stated that the workman refused to accept it. However, such statement was not subjected to cross examination and, therefore, no evidentially value can be given to the same. Similarly, Exh C-3 produced by the same witness Pedro Paulo Barreto. This exhibit is a sealed envelope addressed to the workman by registered post with A/D which was returned unserved with postal remarks "Unclaimed". This envelope was opened by the Court and it contained a letter from the employer to the workman dated 27-8-71 informing him that at the meeting held on 22-8-1971, the members of the Mg. Committee had resolved to terminate his services as from 31-8-1971.

10. But the above evidence is not much relevant for our purpose, because we are concerned only with the fact of refusal of employment to the workman by the employer w.e.f. 16-8-1971. The employer, in its application to the Tribunal dated 4-9-1975, at para 4 has stated as follows: "It is further recorded in the annexed document in C No. IT/29/73, that the Union while stating that he was refused employment from 16-8-1971, Michael himself stated in his handwritten letter that he was on duty on 17-8-1971 when he was caught for excess ticketless passengers and fined by R. T. O., proving that its contents is false." This so called hand written letter of Michael is not before the Tribunal. Never-the-less, from the various papers filed in the proceedings, it appears that the workman was on duty on the employer's bus on 17-8-1971, when the bus was checked by the R. T. O. and fined. This would prove that the refusal of employment to the workman, if any, could not be from 16-8-1971, but, perhaps on some other date.

11. Since this Tribunal cannot go beyond the terms of reference, and the said terms are only that the refusal was on 16-8-1971, I should say that it is not proved that there was such refusal w.e.f. 16th because the workman was found on duty on that day. The Order of reference assumes that there was such refusal and directs the Court to give its findings whether the refusal is justified or not. Since the employer has proved that there was no such refusal with effect from 16-8-1971, the question whether the refusal is justified or not does not arise. Hence, this reference may be treated as disposed off. Each party to bear its own costs.

Dr. Renato de Noronha
Presiding Officer
Industrial Tribunal

Order

No. 28/4/85-ILD

The following Award given by the Industrial Tribunal, Goa, Daman and Diu is hereby published as required under the provisions of Section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947).

By order and in the name of the Administrator of Goa, Daman and Diu.

Subhash V. Elekar, Under Secretary (Industries and Labour);

Panaji, 8th July, 1985.

IN THE INDUSTRIAL TRIBUNAL GOA, DAMAN AND DIU, PANAJI GOA

(Before Dr. Renato de Noronha, Hon'ble Presiding Officer)

Reference No.: IT/37/75

1. Shri Vassant R. Dessai Workman/Party I
V/s.

1. M/s. Bhisso Budho Naik Employer/Party II
Workman/Party I represented by Shri P. Ghodge, General Secretary, Goa Road and General Transport Workers' Union.

Employer/Party II represented by Adv. P. N. Sukhtankar.

Panaji. Dated: 5-6-1985

AWARD

The Government of Goa, Daman and Diu, by its Order No. CLE/1/ID(48)/75-IT-14/75/1564 dated 24th November, 1975, has referred for the adjudication of this Tribunal an industrial dispute between the above parties. The schedule annexed to the order of reference reads as follows:

"Whether the termination of services of Shri Vassant Raghunath Dessai, Bus Conductor, with effect from 24-5-1974 by the management of M/s. Bhisso Budho Naik, Bus-Owner, Quepem-Goa, is legal and justified?

If not, to what relief the workman is entitled to?"

2. The case of the workman, Party I, as per his statement of claim, is that he was serving with the employer as conductor on their buses Nos. GDT 1670, 1755, 2165 and 3240 since 19th March 1958 which belonged to Mr. Bhisso Budho Naik, alias Pandari Biso Naik, alias Bisso & Company, hereinafter referred to as the employer. That, on 12th July 1974, when the workman reported for duty as usual, the employer verbally told him that his services were no more required. Nevertheless, the workman continued to present himself as usual for duty every day, but the employer refused to allot him any work. This action of the employer constitutes wrongful and illegal termination of the services of the workman. Since the employer persisted in not reinstating the workman in service inspite of the efforts made by the workman to persuade them, by letter dated 1st December 1974, the workman raised an industrial dispute with the employer, but did not receive any reply. The matter was taken up before the Labour Commissioner, who is also the Conciliation Officer, but the conciliation proceedings resulted in failure. On the basis of this failure report, the Government referred this matter to this Tribunal for adjudication.

3. The employer Party II, in its written statement, has stated that the firm M/s. Bhisso Budho Naik and Pandari Biso Naik are 2 different entities and doing different transport business independently; that the workman was appointed by the employer as conductor w.e.f. 20-1-1969 on their bus GDT 2165 and when the employer purchased one more bus GDT 2380 the services of the workman were switched on this new bus w.e.f. January 1971. That the workman was a temporary employee and his pay was Rs. 120/- plus Re. 1/- as daily allowance from the beginning till the day he abandoned the services. That the workman was found negligent, careless and involved in activities which amounted to misbehaviour, which were detrimental to the business of the employer. For instance, he used to carry extra passengers inspite of instructions from the employer not to do so; he was also found without uniform; the employer has enumerated some of the incidents in which the workman was caught red handed by the police and transport authorities and such an instance was on 24-5-1974 when he was found without uniform and carrying 43 excess passengers and fined Rs. 885-00 and the fine was paid by the employer from the accounts of the firm. The workman's conductor badge was also impounded by the transport authorities. As the workman was without a conductor's badge he did not turn up for services after the incident of 24-5-1974; about a month after, the workman purchased a stall (Gada) for selling cold drinks, cigarettes etc. at Quepem and with this business he earns not less than Rs. 400/- per month. As the workman did not turn up for services, the employer replaced him by another workman. The workman, by his notice dated 22-6-1974 sent through the Union, demanded his reinstatement with full back wages, which letter was replied by the employer offering him an alternative job in the employer's firm, but the workman did not accept

it and raised a dispute before the Labour Commissioner's Office. The workman stood discharged from services from the date he abandoned it, i.e. 25-5-1974: he was discharged from services as conductor for his misbehaviour and malpractices and, therefore, he is not entitled to any relief.

4. The Roznama of the proceedings dated 8-11-1976 records the following order passed by my Ld. Predecessor Shri Kholali:

"8-11-1976

Shri Ghodge present for the workman.

Shri Sukthankar Advocate for the employer present.

The Advocate for the employer states that there is no order discharge passed by the management for any misconduct and that he has not held any inquiry also for any misconduct. Yet he says that he be permitted to lead evidence, as to misconduct. The management has contended that it is a case of abandonment. If there is abandonment, the case of the worker will have to fail. So evidence will be heard only on that point.

As the above order is explained and read out the Advocate for management requests for time. Adjdg. to 21-12-1976.

Sd./-

R. V. Kollali"

5. The employer led the evidence of Shri Chandrakant Bhisso Naik, partner of the employer, Ravi Puto Naik, Prakash J. P. Chimulkar, and Ramesh Talaulikar. And the workman his own evidence and also the evidence of Gurudas Kashinath Naik and Caetano Travasso.

6. Shri Chandrakant Bhisso Naik, in his statement before the Court, has narrated almost the same facts as stated in his written statement.

In his cross: He has stated that the partnership firm consists of 7 brothers including the witness. That Pandari Naik had one bus No. 1755 that did not come into the partnership in 1970 and was managed by him personally. Pandari looks after the business of that bus and of the partnership as and when convenient to him. All the partners work together but the witness looks after the business. Before 1970, the workman used to work on the bus 1755 and after the partnership was formed he came to work for the partnership firm and, thereafter, never continued as conductor on the bus 1755. The partnership also did not send any other conductor on the bus 1755. At the time when excess passengers were detected, none of the partners were in the bus. Pandari purchased the bus 1755 during his father's time. The fine for the excess passengers was paid by the firm and was not recovered from the workman. No conductor was removed from services for carrying excess passengers only. He denied the suggestion that the workman did not abandon the services but was removed from it.

7. Ravi Naik, has stated that he knows that the workman started a stall for soda, cigarettes etc., in a month of two after he left the employer's work. The stall business gives him Rs. 100/- to Rs. 120/- per day.

In his cross: He has stated that since the workman is in the stall, the witness presumes that the stall belongs to him; when, he goes for lunch, some relation of his is present; he knows the members of the partnership firm, but he does not know whether they are doing the business separately or not.

8. Shri Prakash J. P. Chimulkar has stated that the workman was working as conductor with the employer from 1969-70 to 1974. Since 1974 he has taken his own business in a stall where he sells cigarettes, soft drinks, bidis etc. Bus GDT 1755 is individually owned by Pandari Bhisso Naik and has nothing to do with the transport business of the employer. The workman himself told him one day in 1974 that he had left the services of the employer. This was told when the witness had asked him as to why he was not seen on the bus 2165 and 2085 of the employer. The daily income of the workman in the stall amounts to Rs. 250/- to Rs. 275/-.

9. Ramesh V. Talaulikar has stated that the workman was working as conductor for the employer till 1974. After that he started his own business with a stall at Quepem, where he earns about Rs. 200/- per day. The witness heard that the workman left the services of the employer after the bus was caught in an inspection of the R.T.O. for excess passengers. The transport business of Bhisso Budho Naik is

completely independent of the business of the 'Dodge' bus belonging to Pandari.

In his cross: he has stated that he does not know whether the workman was removed from services or left it on his own.

10. The workman Vassant Dessai has stated that he started working as a conductor, first in the old carreira bus 3240 and, subsequently, changed to No. 1676 belonging to the employer and then registered in the name of Pandari and, thereafter, in various other buses namely 1755, 2165, 2380 etc. and registered in the name of Pandari. Chandrakant used to take the accounts. They were allowed to take as many passengers as possible and, when fined by the police and R.T.O., the fines were paid by the employer. One representative of the employer was always in the bus. Usually Shashi Pandari Naik used to be in the bus and, on other occasions, any of the 7 brothers used to accompany the bus. The workman was removed from the bus because when the Director of Transport inspected the bus and found excess passengers, he pointed out to the R.T.O. Officer that the employer's representative was inside the bus and was responsible for it. After being removed from services, he approached the employer for reinstatement but with no result.

In his cross: He has stated that, although he has worked as conductor for 17 years, he did not know how many buses were owned by the employer in 1974. He always worked for Pandari Budho Naik. During his time Shashikant, Chandrakant, Kashinath, Umanath and Dino and Subhash used to come for checking the passengers. Sometimes one brother got down and the other got in to replace him. They used to be in the bus from 7 a.m. to 8 p.m. He does not remember the exact date of his removal from services, but he can say that from the next day of the inspection of the bus by R.T.O. i.e. 25-5-1974, he is not in service. He approached Pandari Bhisso Naik for his reinstatement. He does not remember whether the Union sent a notice to M/s. Bhisso Budho Naik. To the suggestion that the transport business of Pandari is completely separate from the business of employer, he replied that he is not aware. He did not inquire to whom bus GDT 2165 belongs to when he was asked to work on that bus as conductor. Similarly, regarding bus No. 2380. He always believed that these buses belonged to Pandari. He was paid by Pandari. He has identified his signature on the wage register of April 1974 wherein his wages are shown as Rs. 120/- and D.A. as Rs. 29/- stating that the Management used to take his signature first and then fill up the columns. There are 2 stalls both belonging to his brothers although the licence of one of them is in the name of the workman. He used to look after any of the stalls. He has denied that one of the stalls belongs to him and that he gets about Rs. 400/- to Rs. 500/- per month profits from it.

11. Gurudas Kashinath Naik is one of the witnesses of the workman. He was also working as conductor for Pandari when the workman was doing the same job. After he joined, within about a month, the services of the workman were dispensed with. He does not know whether the buses are registered in the name of Pandari or of his brothers. They were not told not to carry excess passengers. The fines imposed were paid by the owners, one of whom was always present in the bus.

In his cross: On the date of the incident both the workman and the witness were present in the office during the night time when the owner asked the workman as to why he carried excess passengers when the R.T.O. persons were on duty for checking the vehicles. The witness was working as conductor in any of the 3 buses of the employer, namely 2380, 2165 and 1755, that is why he says that all the 3 buses belong to the employer. To the suggestion that bus 1755 belongs to Pandari, he stated that he does not know. He has denied the suggestion that he has worked only on the buses 2380 and 2165 and not in 1755 and, insisted that he has worked on rotation in all the 3 buses. The owner is Bhisso and not Pandari, who is the son of Bhisso. He stated that the services of the workman were dispensed with, because when the workman came to resume duties he was not allowed to do so by the owner. He cannot say even approximately when the services of the workman were terminated. He remembers having seen the workman coming to the establishment of the employer and sitting there during about 15 days. He has denied the suggestion that one of the owners was always in the bus is not correct. The witness himself has given up his services. He was not removed from it. He has seen the workman

or his brother in the stall but he does not know to whom the stall belongs, whether to the workman or not. He has denied the suggestion that he gave up the job because the employer asked him to do some other job instead of a conductor.

12. Caetano Travasso is the last witness of the workman. He has stated that he was working as cleaner and knows that the workman was removed from services by the employer.

In his cross: Bhisso had 3 buses namely 1755, 2165 and 2380. About a year before the witness left the job, the workman was removed from services.

13. This is all the evidence led by the parties. The employer, in its written arguments, has submitted that there is no employer employee relationship between the employer and the workman and, therefore, there is no industrial dispute and the reference is bad in law and should be rejected. It is further submitted that the order of reference refers to the dispute between M/s. Bhisso Budho Naik and the workman, whilst the case of the workman is that his employer is Pandari Bhisso Naik. It is to be noted, however, that the employer, in its written statement, although contending that Bhisso Budho Naik and Pandari Bhisso Naik are 2 different entities, doing different businesses independently, had admitted that the workman was appointed as conductor by the employer w.e.f. 20-1-1969 on the bus GDT 2165 and later shifted on bus GDT 2380, w.e.f. January 1971. This admission, which the employer corroborated in its statement before the Tribunal, would negative the employer's contention that there was no employer employee relationship between it and the workman. At least from 20-1-1969 there was, admittedly, such relationship and, therefore, the objection raised cannot stand and the reference is maintainable.

14. It is an admitted fact that the employer's bus No. GDT 2380, in which the workman was a conductor, was checked by transport authorities on 24-5-1974 and 43 passengers in excess were detected for which a penalty of Rs. 885/- was imposed, which was paid by the employer. It can also be considered as admitted, although there are some discrepancies in the statement of the workman regarding the date of termination of his services, that, after the said date (24-5-1974), the workman did not work for the employer. Whether the workman abandoned the services, as contended by the employer, or was removed from it by the latter, as contended by the workman, that is what we shall see next.

15. The evidence led by the employer to prove the abandonment, consists of its own statement and of the statements of Prakash Chimulkar and Ramesh Talaulikar, but all these statements are hearsay evidence and nothing positive to show that, in fact, it is the workman who left the services of the employer.

On the other side, the evidence led by the workman would go to show that he was removed from services by the employer. Indeed, the statement of the workman before the Court that he was removed from services, after the bus was caught with excess passengers by the transport authorities and he had pointed out the employer's representative as responsible for the excess passengers, seems to be credit worthy. It is corroborated by the witness Gurudas Naik, who, at that time, was also working for the employer, and has given the same reason as that given by the workman for removal from services of the workman. He has further stated that, when the workman came to resume his duties, he was not allowed by the owner to work on the bus. Thereafter, he saw the workman during about 15 days coming to the establishment of the employer and sitting there. This witness has further corroborated the workman while stating that one of the representatives of the employer was always present in the bus and that excess passengers were taken with the knowledge of the employer. And this statement seems to be true. Otherwise, how to explain that fines on all occasions and sometimes amounting to hundred of rupees were always paid by the employer and not debited to the workman? The witness Caetano Travasso, who was working as cleaner for the employer, has also stated that he knows that the workman was removed from services by the employer.

16. It was for the employer to prove the abandonment of services of the workman which he has failed to do. On the other side, the evidence led by the workman convinces that he was removed by the employer because of the incident of excess passengers on 24-5-1974, during which the workman

pointed out to the employer's representative as responsible for the excess passengers.

17. The employer admits that no legal dues were paid to the workman at the time of termination of services and, hence, the termination is illegal and cannot stand.

18. After the termination of the services of the workman, there is evidence to show that he has been partly busy with his stall where he is getting some income. Consequently, I cannot grant him full back wages, but only part of it as compensation.

19. In view of what has been stated above, I answer to the reference by passing the following order:

ORDER

The termination of the workman is illegal and not justified. Hence, I order his reinstatement with continuity of services and half back wages at the rate of Rs. 60/- per month as compensation. Costs of Rs. 300/- to be paid by the employer to the workman.

Dr. Renato de Noronha
Presiding Officer
Industrial Tribunal

Law Department

Establishment Branch

Notification

No. 4-9-84/LD(7)

In exercise of the powers conferred by clause (7) of section 2 of the Civil Procedure Code, 1908 (Act V of 1908 read with order 27, rule 8B of the First Schedule to the said Code, the Lieutenant Governor of Goa, Daman and Diu hereby appoints Shri S. N. Sardesai, Assistant Public Prosecutor as Government Pleader with immediate effect for the purpose of conducting and defending Government interest in all the cases before the Commissioner of Labour and Employment, Revenue Courts in Panaji, Dy. Collector and Estates Officer, North Goa, Panaji and before the Appellate Authority under the Cinematography Act, 1952.

The earlier Notification No. 3-5-80/LD dated 6-4-1982 issued by this Department, stands cancelled.

By order and in the name of the Lieutenant Governor of Goa, Daman and Diu.

G. G. Kambli, Under Secretary (Law).

Panaji, 29th July, 1985.

District and Sessions Court

Order

No. DSC/MAR/1985/1305

Shri G. V. Ratnam, Addl. Civil Judge, Senior Division & Chief Judicial Magistrate, Margao, is hereby granted Earned leave for 6 days with effect from 29-7-1985 to 3-8-1985 with permission to prefix 27th & 28th July, 1985 being 4th Saturday and Sunday respectively and to suffix 4th August, 1985 being Sunday.

Certified that but for proceeding on leave, he would have officiated as Addl. Civil Judge, Senior Division & Chief Judicial Magistrate.

On expiry of leave granted, he is likely to be reposted in the same post and at the same station from where he is proceeding on leave.

During his absence on leave for the period as referred to above Dr. Orlando Pinto Soares, Civil Judge, Senior Division, Margao shall look after Civil work and Shri Gopal A. Mhambre, Judicial Magistrate First Class, Margao shall look after the Criminal work pertaining to his Court.

After availing the above leave, he will have at his credit earned leave for 115 days as on 31-12-1985.

Eurico Santana da Silva, District & Sessions Judge.

Margao, 24th July, 1985.

Order

No. DSC/JO/L/159/85/2444

Shri S. S. Kamat, Civil Judge Junior Division and Judicial Magistrate First Class, Diu (on leave) is hereby granted extension of Earned Leave for 39 days with effect from 4-6-85 to 12-7-85 with permission to suffix 13th and 14th July, 1985 being Second Saturday and Sunday respectively.

Certified that but for leave he would have officiated as Civil Judge Junior Division and Judicial Magistrate First Class.

Alvaro de Noronha Ferreira, District and Sessions Judge.

Panaji, 25th July, 1985.